
United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects

By

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The abstract goals and objectives of this conference are laudable. Attacking the global illicit trade in small arms and light weapons is an important initiative which the international community should, indeed must, address because of its wide ranging effects. This illicit trade can be used to exacerbate conflict, threaten civilian populations in regions of conflict, endanger the work of peacekeeping forces and humanitarian aid workers, and greatly complicate the hard work of economically and politically rebuilding war-torn societies. Alleviating these problems is in all of our interest.

Small arms and light weapons, in our understanding, are the strictly military arms, automatic rifles, machine guns, shoulder-fired missile and rocket systems, and light mortars that are contributing to continued violence and suffering in regions of conflict around the world. We separate these military arms from firearms such as hunting rifles and pistols, which are commonly owned and used by citizens in many countries. As U.S. Attorney General John Ashcroft has said, "Just as the First and Fourth Amendments secure individual rights of speech and security respectively, the Second Amendment protects an individual right to keep and bear arms." The United States believes that the responsible use of firearms is a legitimate aspect of national life. Like many countries, the United States has a cultural tradition of hunting and sport shooting. We, therefore, do not begin with the presumption that all small arms and light weapons are the same or that they are all problematic. It is the illicit trade in military small arms and light weapons that we are gathered here to address and that should properly concern us.

The United States goes to great lengths to ensure that small arms and light weapons transferred under our jurisdiction are done so with the utmost responsibility. The transfer of all military articles of U.S. origin are subject to extremely rigorous procedures under the *U.S. Arms Export Control Act* and *International Traffic in Arms Regulations*. All U.S. exports of defense articles and services, including small arms and light weapons, must be approved by the Department of State. Assurances must be given by the importing country that arms will be used in a manner consistent with our criteria for arms exports: they must not contribute to regional instability, arms races, terrorism, proliferation, or violations of human rights. Arms of U.S. origin cannot be retransferred without approval by the United States. To ensure that arms are delivered to legitimate end-users, our government rigorously monitors arms transfers, investigating suspicious activity and acting quickly to curtail exports to those recipients who do not meet our strict criteria for responsible use. In the past five years, the United States has conducted thousands of end-use checks, interdicted thousands of illicit arms shipments at U.S. ports of exit, and cut-off exports entirely to five countries due to their failure to properly manage U.S. origin defense articles.

All commercial exporters of arms in the United States must be registered as brokers and submit each transaction for government licensing approval. Our brokering law is comprehensive, extending over citizens and foreign nationals in the United States, and also U.S. citizens operating abroad. Believing that it is in our interest to stem the illicit trade in military arms, the United

States has avidly promoted and supported such international activities as the Wassenaar Arrangement and the U.N. Register of Conventional Arms. Bilaterally, we offer our financial and technical assistance all over the world to mitigate the illicit trade in small arms and light weapons. We have worked with countries to develop national legislation to regulate exports and imports of arms, and to better enforce their laws. We have provided training, technical assistance, and funds to improve border security and curb arms smuggling in many areas of the world where this problem is rampant. And in the past year, we have instituted a program to assist countries in conflict-prone regions to secure or destroy excess and illicit stocks of small arms and light weapons.

We are proud of our record, and would hope that the program of action would encourage all nations to adopt similar practices. Our practical experience with these problems reflects our view of how best to prevent the illicit trade in small arms and light weapons. Our focus is on addressing the problem where it is most acute and the risks are highest: regions of conflict and instability. We strongly support measures in the draft program of action calling for effective export and import controls, restraint in trade to regions of conflict, observance and enforcement of United Nations Security Council embargoes, strict regulation of arms brokers, transparency in exports, and improving security of arms stockpiles and destruction of excess. These measures, taken together, form the core of a regime that, if accepted by all countries, would greatly mitigate the problems we all have gathered here to address.

There are, however, aspects of the draft program of action that we cannot support. Some activities inscribed in the program are beyond the scope of what is appropriate for international action and should remain issues for national lawmakers in member states. Other proposals divert our attention from practical, effective measures to attack the problem of the illicit trade in SA/LW where it is most needed. This diffusion of focus is, indeed, the program's chief defect, mixing together as it does legitimate areas for international cooperation and action and areas that are properly left to decisions made through the exercise of popular sovereignty by participating governments.

We do not support measures that would constrain legal trade and legal manufacturing of small arms and light weapons. The vast majority of arms transfers in the world are routine and not problematic. Each member state of the United Nations has the right to manufacture and export arms for purposes of national defense. Diversions of the legal arms trade that become "illicit" are best dealt with through effective export controls. To label all manufacturing and trade as "part of the problem" is inaccurate and counterproductive. Accordingly, we would ask that language in Section II, paragraph 4 be changed to establish the principle of legitimacy of the legal trade, manufacturing and possession of small arms and light weapons, and acknowledge countries that already have in place adequate laws, regulations and procedures over the manufacture, stockpiling, transfer and possession of small arms and light weapons.

We do not support the promotion of international advocacy activity by international or non-governmental organizations, particularly when those political or policy views advocated are not consistent with the views of all member states. What individual governments do in this regard is for them to decide, but we do not regard the international governmental support of particular political viewpoints to be consistent with democratic principles. Accordingly, the provisions of the draft program that contemplate such activity should be modified or eliminated.

We do not support measures that prohibit civilian possession of small arms. This is outside the mandate for this conference set forth in *United Nations General Assembly Resolution 54/54V*. We agree with the recommendation of the 1999 U.N. panel of governmental experts that laws and procedures governing the possession of small arms by civilians are properly left to individual member states. The United States will not join consensus on a final document that contains

measures abrogating the Constitutional right to bear arms. We request that Section II, paragraph 20, which refers to restrictions on the civilian possession of arms to be eliminated from the program of action, and that other provisions which purport to require national regulation of the lawful possession of firearms such as Section II, paragraphs 7 and 10 be modified to confine their reach to illicit international activities.

We do not support measures limiting trade in small arms and light weapons solely to governments. This proposal, we believe, is both conceptually and practically flawed. It is so broad that in the absence of a clear definition of small arms and light weapons, it could be construed as outlawing legitimate international trade in all firearms. Violent non-state groups at whom this proposal is presumably aimed are unlikely to obtain arms through authorized channels. Many of them continue to receive arms despite being subject to legally-binding United Nations Security Council embargoes. Perhaps most important, this proposal would preclude assistance to an oppressed non-state group defending itself from a genocidal government. Distinctions between governments and non-governments are irrelevant in determining responsible and irresponsible end-users of arms. The United States also will not support a mandatory review conference, as outlined in Section IV, which serves only to institutionalize and bureaucratize this process. We would prefer that meetings to review progress on the implementation of the program of action be decided by member states as needed, responding not to an arbitrary timetable, but specific problems faced in addressing the illicit trade in small arms and light weapons. Neither will we, at this time, commit to begin negotiations and reach agreement on any legally binding instruments, the feasibility and necessity of which may be in question and in need of review over time.

Through its national practices, laws, and assistance programs, through its diplomatic engagement in all regions of the world, the United States has demonstrated its commitment to countering the illicit trade in small arms and light weapons. During the next two weeks, we will work cooperatively with all member states to develop a final document which is legitimate, practical, effective, and which can be accepted by all nations. As we work toward this goal over the next two weeks, we must keep in mind those suffering in the regions of the world where help is most desperately needed and for whom the success of this conference is most crucial.